

Attachment to Independent Case Review Report  
for CDRU # 920 Case File # 95-293473.

Material Examiner Malone. (RO)

Remarks:

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INDEPENDENT CASE REVIEW REPORT

Independent Review conducted by: STEVE ROBERTSON

Area(s) of Expertise: HAIR AND FIBERS

Review commenced at: 12:45P (Time), 9/14/99 (Date)

File #: 95-293473

Laboratory #(s): 00525023 10306032  
00607054 10321042  
00823033

Examiner(s) & Symbols

	Reviewed	Not Reviewed		Reviewed	Not Reviewed
<u>RO</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
<u>ZD</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
<u>XT</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

Materials Reviewed

Trial testimony transcript(s) of: MICHAEL MALONE

Testimony Date(s): SEPT 12, 1991 Pages: 512-593

Laboratory Report(s): 00525023, 00607054,

Laboratory Number: 00823033, 10306032, Date: 8-1-91

Laboratory Number: 10321042 Date: \_\_\_\_\_

Laboratory Number: \_\_\_\_\_ Date: \_\_\_\_\_

Examiner Bench Notes of: RO AND SEVERAL UNKNOWN TECHNICIANS

Laboratory Number: 00525023, 00607054,  
00823033, 10306032, 10321042

Laboratory Number: \_\_\_\_\_

Laboratory Number: \_\_\_\_\_

Was any other material reviewed?  Yes  No

If yes, please identify and/or describe the material: SUBMITTING AGENCY LETTER DATED  
May 24, 1990

### Results of Review

File #: 95-293473 Item or Specimen # Reviewed: Q1-Q15, Q19-Q28,  
Q34-Q66, K2-K6, K8-K14

#### Review of Laboratory Report(s) and Bench Notes:

Note: Numbered comments are required below or on additional pages for any "No" or "Unable to Determine" Responses

- 1) Did the examiner perform the appropriate tests in a scientifically acceptable manner, based on the methods, protocols, and analytic techniques available at the time of the original examination(s)?  
 Yes  No  Unable to Determine
- 2) Are the examination results set forth in the laboratory report(s) supported and adequately documented in the bench notes?  
 Yes  No  Unable to Determine

#### Review of Testimony:

Note: Numbered comments are required below or on additional pages for any "No" or "Unable to Determine" Responses

- Transcript not available.
- 3) Testimony consistent with the laboratory report(s)?  Yes  No  Unable to Determine
  - 4) Testimony consistent with the bench notes?  Yes  No  Unable to Determine
  - 5) Testimony within bounds of examiner's expertise?  Yes  No  Unable to Determine

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Initials SM

Comments

(Set forth by above question #, if applicable.  
Use "Additional Comments" Sheet, if needed)

#1. THERE IS INSUFFICIENT DOCUMENTATION TO DETERMINE IF THE HAIR AND FIBER COMPARISONS WERE PERFORMED IN A SCIENTIFICALLY ACCEPTABLE MANNER.

#2. THE RESULTS ARE NOT ADEQUATELY DOCUMENTED IN THE NOTES. NOTES BY THE SEVERAL TECHNICIANS WHO PROCESSED THE EVIDENCE ARE NOT DATED OR INITIALLED, THEY ARE WRITTEN WITH PENCIL INSTEAD OF INK AND GENERALLY DO NOT INDICATE THAT HAIR OR FIBERS WERE RECOVERED FROM THE EVIDENCE ITEMS (SUCH AS Q35). THE EXAMINER NOTES ARE IN PENCIL, ARE NOT DATED AND USE ABBREVIATIONS DIFFICULT TO INTERPRET. THE LENGTH AND NUMBER OF HAIR EXAMINED IS NOT NOTED. SOME HAIR WERE DEEMED UNSUITABLE WITH NO

Review completed at: 3:30P (Time), 9/14/99 (Date)

Total time spent conducting review (to nearest 1/4 hour): 2 3/4 hours

I hereby certify that I conducted this review in an independent, unbiased manner and that the results of my review are fully documented on this report consisting of a total of 5 pages.

Steve Roberts 9-14-99  
(Signature) (Date)

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Initials SRW

Additional Comments  
(Set forth by question #, if applicable)

File #: 95-293473

DOCUMENTED REASON OR EXPLANATION.

THE EXAMINER PERFORMED SOLUBILITY TESTS ON THE Q1  
TEXTILE TO HELP IDENTIFY IT AS POLYESTER, BUT DID NOT DO  
THE SAME TESTS ON THE FIBER FROM Q35 (WHICH HE CALLED  
A MATCH TO Q1).

INSTRUMENTAL PARAMETERS USED TO OBTAIN SPECTRA ON  
THE Q1 AND Q35 FIBERS ARE NOT DOCUMENTED.

INFRARED ANALYSIS IS A MUCH MORE SPECIFIC METHOD TO  
IDENTIFY A FIBER AS POLYESTER. THIS METHOD WAS AVAILABLE  
TO THE EXAMINER, ACCORDING TO [REDACTED] IN 1990-1991  
AND HE CHOSE TO USE SOLUBILITY TESTS.

CONFIRMATION OF THE HAIR COMPARISON WAS APPARENTLY  
OBTAINED FROM ANOTHER EXAMINER, BUT THE SPECIMENS  
EXAMINED BY THE SECOND EXAMINER ARE NOT SPECIFIED.

#3. THE TESTIMONY ABOUT THE STRENGTH OF THE HAIR AND  
FIBER COMPARISONS IS STRONGER THAN THE REPORT.

#5. THIS EXAMINER TESTIFIED IT IS FBI LAB POLICY THAT A HAIR  
MUST HAVE AT LEAST 15 INDIVIDUAL MICROSCOPIC CHARACTERISTICS  
OR IT HAS NO VALUE FOR COMPARISON. [REDACTED] SAYS HE  
IS NOT AWARE OF THE FBI LAB HAVING THIS POLICY. THIS  
OPINION IS NOT SHARED BY MOST OTHER HAIR EXAMINERS.

THIS EXAMINER INCORRECTLY TESTIFIED THAT THE  
MICROSPECTROPHOTOMETER CAN IDENTIFY THE DYE ON A FIBER. THERE

Additional Comments  
(Set forth by question #, if applicable)

File #: 95-293473

ARE PUBLISHED ARTICLES IN THE JOURNAL OF FORENSIC SCIENCES WHICH CLEARLY STATE MICROSPECTROPHOTOMETRY CANNOT IDENTIFY THE DYE, IT ONLY MEASURES COLOR.

THIS EXAMINER HAD A PHOTOGRAPHIC DISPLAY OF THE Q1 TO Q35 FIBER COMPARISON PREPARED FOR COURT PRESENTATION, BUT THERE ARE NO PHOTOGRAPHS OR DOCUMENTATION ABOUT THIS IN THE CASE FILE.